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May 10, 2004

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington DC 20551

RE: Docket No. R-1186

Dear Secretary Johnson:

The National American Indian Housing Council (NAIHC) would like to comment on the content and format of the Home Mortgage Disclosure Act (HMDA) public disclosure tables. As the only national housing group representing more than 450 American Indian tribes and Alaska Native Villages and their housing entities, we have a responsibility to address issues affecting the Native population.

Currently, HMDA data monitors mortgages made to Native Americans. While there has been an increase in mortgages, there is still room for improvement. For example:

- In 2001, 15,279 loans were made
- In 2002, 18,752 loans were made
- In 2001, 35% of loans were denied
- In 2002, 23% of loans were denied

As you can see, the growth in loans and decreased denial rates show that the Native community is an emergent force when it comes to mortgage loans. Overall, the denial rates have declined, from a high of 66% in 1997 to 23% in 2002. This is just in time for the imminent demand for housing for the expanding Native population. Since 1990, the Native American population has increased 17.9%, faster than the growth rate of the general U.S. population (10.7%). The Census Bureau estimates that as of July 2002, there are 2.8 million Native Americans (reporting as American Indian or Alaska Native (AIAN) only) and 4.3 million Native Americans (reporting as Native, plus AIAN and one or more other races).

Additionally, the Native population is young—a full 34.5% of the population residing on reservations or trust lands is under the age of 18. The median age of Native Americans is 28.7 years, compared to 35.3 for the total U.S. population. NAIHC views these numbers as an early sign that there will soon be more Native people entering the stages of life where buying a home and applying for a mortgage take place.

The home-buying process is also a time of life when many young people are not aware of how to avoid the pitfalls of unscrupulous predatory lenders. Like many minority groups, many Native American homebuyers are first generation homebuyers. The Native American homeownership rate is estimated to be around 33%, less than half that of the national rate (68%). Therefore, it will be increasingly important for data to be collected on minorities. We cannot allow this disparity to

continue, thus, HMDA data allows us to monitor the preliminary signs of growth of mortgages to the Native community.

### **Data Collection**

The issue of data gathering is one which has been gaining momentum lately. For one, there is a real need. Due in part to the fact that American Indians and Alaska Natives (AIAN only) make up 1% of the entire U.S. population, few agencies collect data solely on the Native community. In 2003, the U.S. Commission on Civil Rights issued a report on unmet needs and unfair spending on badly-needed programs in Indian country. The report stated how it is “difficult” to assess the actual disparity in spending between Native Americans and other groups because “relatively little comparative data are collected” by federal agencies, such as the U.S. Department of Housing and Urban Development.

The need assessment report even recommended that data be gathered on the overall housing need and current conditions (including construction costs in rural Native areas compared to urban centers, waiting lists, etc.). NAIHC has fulfilled that recommendation by distributing its own survey of member tribes so the housing need of tribes can be more fully demonstrated. This is a challenge for much of Indian country, which is practically “out of sight, out of mind.” It is a serious challenge to bring progress to an area and to a people that are so often forgotten, misunderstood and overlooked. Once more attention is drawn to the need and to the disparity, only then will mortgage lenders increase their lending to Native people and, at last, Native people will stop being the victims of unfair and predatory lenders.

Finally, in order to demonstrate the need, it means HMDA and other credible sources must make all efforts to provide the most comprehensive data possible. This means we cannot have information for Native Americans lumped in with other minorities, nor can we bear to avoid collecting the data in the first place.

If Indian country hopes to benefit from the Bush administration’s plan to create 5.5 million new minority homeowners by 2010, the situation in tribal areas cannot be overlooked. Thus, standards must be adopted to archive valuable and relevant data. Quite simply, without comprehensive data, how else can one expect to demonstrate progress if there is no way to measure it?

### **Protection Against Predatory Lenders**

Another issue of concern to NAIHC is that HMDA data be presented in a usable format, thus, NAIHC approves of the proposed new tables, with some minor changes to the collection of information relative to the Native population on reservation lands. The new format of the tables will allow us to better analyze data so we can hold lenders accountable for their lending efforts in tribal areas.

Over the past several years, NAIHC has done its part to inform the public, the financial industry and policy makers of the need to protect Native Americans against the unfair and destructive practices of predatory lenders. With a growing population, it means there are potentially more first-time homebuyers in Indian country, many of whom are unfamiliar with the mortgage lending process and the unscrupulous tactics used by some lenders. Over the years, some tribal housing leaders have spoken out about incidences of predatory lending and some of the unfortunate consequences that have resulted, therefore, in 2003, NAIHC conducted a survey of our member tribes to determine whether predatory lending was a major problem in tribal areas.

Our findings included:

- 52.9% of respondents stated that lenders discriminated on the basis of race

- 10.8% stated discrimination resulted in rejection of their loans
- 35% of respondents said that first-time homebuyers were targets

While it's encouraging to know that Native American access to lending may be increasing, these data reveal that predatory lending is still a concern.

### **Keep Gender Specific Data**

Across the country, the definition of family is changing. And, in low-income or minority populations, the nuclear family is not always the norm. In tribal areas, 18.6% of households are female-headed. Buying a home, for all the financial sense it makes, is not always feasible for single-parents, particularly for women. Therefore, keeping the data singled-out would be the best way to ensure that the thousands of Indian children under age 18 will have the best opportunity to obtain a mortgage loan.

Tracking the data will allow us to watch for incidences of discrimination, predatory lending and monitor the overall progress of female homebuyers in Indian country and beyond. We urge you to continue gathering gender-based data.

### **Manufactured Home Loan Data is Not Detailed Enough**

In Indian country, manufactured homes are common in Indian country. These homes allow a quick solution to a desperate housing problem, when there are time-consuming complications from the BIA, HUD and lenders. However, in NAIHC's study of predatory lending in tribal areas, it was determined that manufactured home loans are a target of predatory lenders.

NAIHC's Findings:

- 48.6% of respondents said abusive manufactured home lending was the most frequently named predatory lending practice
- 32.4% responded that purchasers of mobile or manufactured homes were abused

Accordingly, NAIHC is pleased to hear that data on loans for manufactured homes is now required information, as of this year.

In the tables of lending by census tract category or lending by groups of borrowers, the Federal Reserve Board proposes not to separately report lending trends by different purposes for manufactured home loans. In other words, the general public will only know how many manufactured home loans were offered for the purposes of home purchase, home improvement, and refinance lending considered together. NAIHC appreciates that the Federal Reserve Board is striving for a balance between the imperatives of comprehensiveness and succinctness of information. It's difficult to sift through nearly 100 pages of tables and text descriptions of the proposed tables. In this case, however, the Federal Reserve Board errs too much on the side of succinctness.

At the very least, the general public needs information on how many home purchase loans were for traditional homes and how many were for manufactured homes for different groups of borrowers and census tracts. For instance, in the Table 4 Series, breaking out home purchase lending for manufactured homes versus traditional homes would result in only one or three more tables, depending on whether the separation is done for conventional home purchase, government-insured home purchase and/or conventional and government-insured home purchase lending combined.

While NAIHC urges the Federal Reserve to consider three more tables, the Federal Reserve should at least add one more table showing home purchase lending for manufactured homes only. Then members of the general public can determine how many home purchase loans were made for traditional homes by subtracting home purchase loans for manufactured homes from the proposed table on home purchase lending for traditional homes and manufactured homes combined.

#### **More Information for Pricing for Manufactured Home Loans**

Table 12 Series has pricing information for conventional manufactured home purchase loans, first liens. An additional table should be added for government-insured manufactured home purchase loans so that the general public can determine if pricing disparities are similar or different in the conventional or government-insured manufactured home loan market. In addition, columns should show ranges of prices (percentage points above Treasury Rates) for manufactured home loans in Table Series 12 as is done for Table Series 11. In addition, since manufactured home loans have higher interest rates than traditional home purchase loans, one more column (10 percentage points or more above Treasury rates) should be added. Finally, the table should clarify that the pricing information is based on loan approvals rather than applications as is done for Table 11 Series.

#### **Preapprovals by Minority, Income Level and Gender of Borrower**

The Summary Table A Series should include more information reporting preapprovals resulting in loan originations and denials by minority, income level and gender of borrower. A significant policy issue that motivated the inclusion of preapprovals was whether traditionally underserved borrowers had as much access as whites to preapprovals. Thus, in order to ascertain if this is the case, the data tables must have information by groups of borrowers, if not groups of census tracts, for this data.

In conclusion, NAIHC supports the proposed new tables for HMDA data, however, we request that data be disclosed in the most informative manner. Further, we ask the Federal Reserve Board to increase the amount of detail in the proposed data tables as indicated in this comment letter.

We believe that existing HMDA data has made possible significant increases in lending to underserved populations because it was made public. Community groups, public officials, community leaders and others have been able to engage lenders in dialogue on how to best overcome unmet credit needs through data analysis. This positive and proactive dialogue will have a greater chance of attaining fairness in pricing if the new HMDA data elements become widely available and discussed.

We are bringing these issues to your attention in hopes that stronger data collection standards are put in place. These changes will greatly impact the lending environment for Native Americans across the country. If you have any questions, please feel free to contact me at 202-789-1754.

Thank you.

Sincerely,

Gary L. Gordon  
Executive Director  
National American Indian Housing Council